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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/601,280	07/31/2000	Axel Schulte	40098	9762
7590 09/22/2004			EXAMINER	
Roylance Abrams Berdo & Goodman Suite 600 1300 19th Street NW Washington, DC 20036			ART UNIT	PAPER NUMBER

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance
With 37 CFR 1.192(c)**

Application No.

09/601,280

Applicant(s)

SCHULTE

Examiner

Cheryl Juska

Art Unit

1771

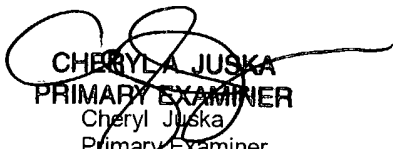
--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 26 March 2004 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

The Brief is non-compliant because it refers to the substitute specification which is being denied entry due to new matter contained therein. The substitute specification was previously denied entry for lack of a proper marked up version. Note the Final Rejection of 03/19/03, section 2 and Rule 1.125(c), which states the marked up copy must show changes relative to the immediate prior version of the specification on record. The substitute specification mailed 03/09/04 in response to the Notice of Non-Compliance mailed 03/01/04, was accepted, but not actually entered, at that time by the examiner despite the lack of a proper marked up version. Upon deciphering the marked up copy of the specification, it has been determined that said substitute specification contains new matter. For example, the subject matter at page 3, lines 3-5 and the first paragraph of page 4 is not supported by the original disclosure of the present application. As such, it cannot be entered into the application as a replacement disclosure. Hence, the Appeal Brief is still non-compliant because it refers to the non-entered substitute specification.


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